

**STEVEN J. GEHRING** )  
                     Claimant )  
 VS. )  
                     Respondent )  
**THERMAL CERAMICS** )  
                     Respondent )  
 AND )  
                     Respondent )  
**ZURICH AMERICAN INSURANCE COMPANY** )  
                     Insurance Carrier )

Docket Nos. 214,444 & 214,445

Claimant appeals from a preliminary hearing Order Denying Compensation dated May 23, 1997.

The issues to be considered on appeal are:

- ## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the entire record and considering the briefs submitted by the parties, the Appeals Board finds that the Order Denying Compensation entered by the Administrative Law Judge should be affirmed.

Claimant alleges he suffers from a variety of symptoms as a result of exposure to chemicals during his employment with respondent. Claimant worked for respondent from May of 1979 through June 25, 1995, and then again for two days, July 1 and 2, 1996. Claimant's work for respondent included mixing and spraying the glue or surfactant used to hold fibers of insulation together. Claimant left his employment on June 25, 1995, and took a medical leave of absence because of the symptoms he now attributes to his employment. Claimant testified that his condition improved during the time he was away from work.

On July 1, 1996, claimant returned to work for respondent and experienced symptoms which he described as similar to the symptoms he had experienced while working for respondent previously: primarily swollen, itchy eyes and swelling of his nose, tongue and throat. He showed his swollen eyes to a supervisor on July 2, 1996. This was the first time claimant related to his supervisor that he believed his condition was work-related. He returned to his doctor and was given an off-work slip. He was, thereafter, treated for a variety of symptoms. A written claim for workers compensation benefits was delivered to the respondent on July 18, 1996.

Claimant alleges that he did not experience the allergy or hay fever-type symptoms before he worked for respondent and before the respondent began using the new surfactant chemicals in 1990 or 1991. However, James H. Ransom, M.D., in his October 8, 1990, report states claimant has had respiratory problems for about three years. He was diagnosed with seasonal allergies in 1990, testing positive for several cool-season grasses and had a strong reaction to ragweed and pigweed. Claimant also missed work due to vertigo during October 1990. Despite the voluminous medical records introduced into evidence at the preliminary hearing for treatment prior to July 1996, these records do not connect claimant's various symptoms and conditions to his work. The July 3, 1996, report of Chester W. Stone, M.D., contains claimant's statements relating claimant's swollen, itchy eyelid to work, but the records show claimant also had problems with this even during the time he was off work. Furthermore, although claimant testified that his symptoms significantly improved when he was away from the workplace where he was not exposed to the chemical, again, the medical records do not bear this out. In fact, there is medical evidence to the contrary, in that it was during the time claimant was off work in February 1996 that claimant was evaluated at the Mayo Clinic. The medical evidence also fails to prove claimant's assertion that his condition is the result of an allergic reaction to certain chemicals at work. Claimant did apparently suffer some exacerbation of certain symptoms during his brief return to work on July 1 and 2, 1996, but the evidence simply is not persuasive that the work environment is the cause of all of claimant's various symptoms.

Based upon the record as it currently exists, the Appeals Board concludes that claimant has failed to establish he suffers from an occupational disease and that his condition arose out of and in the course of his employment with respondent. The application for preliminary benefits should, therefore, be denied and the Order by the Administrative Law Judge affirmed. Because of the Appeals Board's finding on this first issue, the remaining issues raised by claimant are moot.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order Denying Compensation of Administrative Law Judge Floyd V. Palmer, dated May 23, 1997, should be, and hereby is, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of November 1997.

---

BOARD MEMBER

c: Roger D. Fincher, Topeka, KS  
Clifford K. Stubbs, Lenexa, KS  
Floyd V. Palmer, Administrative Law Judge  
Philip S. Harness, Director